

**TESTIMONY ON HB 2575  
BEFORE THE HOUSE COMMITTEE ON REVENUE  
JANUARY 31, 2023**

**PRESENTED BY: ROBERT MANICKE, OREGON TAX COURT JUDGE  
OREGON JUDICIAL DEPARTMENT**

Chair Nathanson, Vice Chairs Reschke and Walters, and Members of the Committee:

My name is Robert Manicke, and I am the Judge and administrative head of the Oregon Tax Court. The Oregon Judicial Department (OJD) is neutral on HB 2575 and we provide this testimony for informational purposes.

**Introduction to the Oregon Tax Court.**

As the committee knows, the Oregon Tax Court has jurisdiction over all cases involving the tax laws of Oregon. HB 2575 involves only the Regular Division of the Oregon Tax Court, where I am the only judge.

**What does HB 2575 do?**

HB 2575 deals with two legal concepts, which I will explain: The first concept is declaratory judgment lawsuits. These are lawsuits brought at the early stages of any civil dispute in almost any trial court. The purpose is to let the parties ask the court for guidance on a legal issue in the dispute, rather than waiting for one party to cause more serious harm to the other. In the Oregon Tax Court, declaratory judgment lawsuits are rather rare, but as a simple example, imagine a taxpayer who is in the midst of an audit. The taxpayer and the auditor are discussing how a particular part of the law works, and they find that they disagree. If the auditor's view were right, the auditor would issue a large bill. If the taxpayer's view were right, the taxpayer would owe nothing. In that case, the taxpayer might file a declaratory judgment lawsuit asking the judge to resolve the ambiguity in the law by "declaring the rights" of the taxpayer and the government.

This brings us to the second concept - "standing," or "standing to sue." In my example just now, the person filing the declaratory judgment lawsuit is the actual taxpayer, the person being audited. Under current law, that taxpayer would have standing because the taxpayer would be directly "aggrieved" because that taxpayer's own money would be taken if the taxing authority were to win the lawsuit. See ORS 305.275 and ORS 305.570.

HB 2575 would expand standing to sue, but only for those cases that are declaratory judgment lawsuits. HB 2575 would grant an association or organization standing to file a declaratory judgment lawsuit in the Oregon Tax Court if:

1. One or more members of the association or organization is adversely affected;
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 participate in the proceedings in the Oregon Tax Court.

Simply put, HB 2575 would broaden the class of entities who have standing to seek declaratory relief. An organization filing the lawsuit would only need to show negative impacts to one or more of the organization's members to maintain standing in a declaratory judgment action.

I anticipate that HB 2575 would result in some additional cases for declaratory relief in the Oregon Tax Court, as organizations sometimes have more extensive resources than any one member, and the organization may be mission-driven to bring these actions on behalf of its members. Only a small number of the Oregon Tax Court's current cases are requests for declaratory relief. While this measure may somewhat increase the number of declaratory judgment lawsuits, I anticipate that the overall impact will be manageable for the Oregon Tax Court.

#### **Suggested Clarifications.**

Although OJD is neutral on this bill, if the legislature is inclined to consider it, I would like to point out that the current version of HB 2575 refers to "standing" but does not refer to the existing statutes that define standing in the Oregon Tax Court, ORS 305.275 and ORS 305.570. To avoid confusion if the bill were to pass, I would be happy to work with proponents and other stakeholders on amendments that would conform or harmonize the bill with those existing laws.

#### **Conclusion.**

Thank you for the opportunity to provide this information on HB 2575. I welcome any questions.