Testimony for HB 2227 A-Engrossed
Exemptions Standardization Legislation 2013

Problem: There are 123 property tax expenditures. Many have similar but different provisions for application, eligibility, timeframe, approval and disqualification. The degree of variability is becoming unmanageable for county assessor's offices throughout the state and leads to errors. The inefficiency in the administration of these programs was highlighted in Representative Nathanson's recent task force on Government Efficiency. A workgroup of county assessors facilitated by the department developed this bill as a follow up to recommendations from that Task Force.

Solution: Sunset unused or little used expenditures, conform various notices to a single format, simplifying certain lease notifications for exempt entities, conform the way claw back provisions are to be performed and shift the application responsibility to the person or entity seeking the exemption.

Section 1 repeals **SIX** tax expenditures that are not used, little use or have never been used. They are:

- ORS 263.290 (page 286 of your 2013-15 Tax Expenditure Report) This expenditure provides an exemption for all property of a sports and convention commission. It was enacted in 1985 and has **never been** used. ORS 263.210 already makes the commission a municipal corporation whose property would be exempt under ORS 307.090. **Sunset: None**

- ORS 307.065 (page 237 of your 2013-15 Tax Expenditure Report) This expenditure provides an exemption for all property of the federal government that is used and in the possession of a private defense contractor under an Air Force agreement. It was enacted in 1965, there is no record of it ever being used. **Sunset: None**

- ORS 307.205 (page 266 of your 2013-15 Tax Expenditure Report) This expenditure provides an exemption for railroad right of way when used for public alternative transportation. It was enacted in 1977 and is not used. Transitions from rail use to bike use such as for rails to trails programs with the liability issue normally ownership transfer is preferred over permissive or shared use. I believe any qualifying public transportation entity would be exempt under ORS 307.112. **Sunset: None**

- ORS 307.220 (page 270 of your 2013-15 Tax Expenditure Report) This expenditure exempts nonprofit telephone associations. This exemption was created in 1941. The total benefit cannot exceed $37. Our records reflect no filings. **Sunset: None**

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- ORS 307.230 (page 271 of your 2013-15 Tax Expenditure Report) This expenditure exempts private telephone system property owned by an individual. These systems consist of a couple poles and some line. We are aware of only two for at least the last ten years with a total combined value of tax savings of $100. By definition they cannot exceed $1500 or a tax savings of $22. It was enacted in 1941. **Sunset: None**

- ORS 307.240 This statute implements the two previously mentioned telephone expenditures.

- ORS 308.559 (page 235 of your 2013-15 Tax Expenditure Report) This expenditure exempts property that is aircraft while it is being repaired. It was enacted in 1995. This exemption was used last in the 1999-01 biennium by Alaska/Horizon. **Sunset: None**

  "This exemption was created at least partly to encourage the location of a major aircraft repair facility in Oregon. The prospective facility was to be managed by a firm named Pamcorp. However, despite the fact that buildings were built to house this activity, Pamcorp did not succeed in operating the facility and is no longer in business. In this respect, the exemption has not yet succeeded in achieving its desired result."

Section 2 makes the application of Section 1 apply to tax years beginning on or after 2017. This provision essentially allows opportunities for interested persons or businesses to use any of these expenditures and provide time to reauthorize any or all of these as you deem appropriate.

Section 3 is the authority for legislative council to remove these statutes from the compilation when the expenditures end in 2017 unless reauthorized.

The changes in Sections 4 to 14 are intended to conform and standardize the notices for exemption approval to April 1 for a series of housing related programs.

Section 4-14 These sections provide **consistency in the notices** to assessors of various housing related exemptions. April 1 is the primary date that applications are due for most programs. For all these programs we have inserted a reference to Section 4 as the filing deadline for filing notice of approval.

Section 5 and 6 In this **Low Income Rental Housing** exemption the applicant files with the city or county, then the city or county files with the assessor. This change makes it clear that the filing deadline for the notice of approval is as set forth in Section 4.

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Section 7 and 8 In this **Nonprofit Corporate Low Income Housing** exemption the applicant files with the city or county then the approving entity must file the approval with the assessor. This program requires an annual application. Existing language has the applicant filing with the city or county by April 1. Then the city or county files with the assessor but no filing date is specified. The change in this section is that it conforms the filing to coincide with an April 1 notice to the assessor.

Section 9 In this **Multiunit Housing exemption** program the city or county must also approve the application. The filing deadline for the notice is already April 1 so this bill makes no substantive change to this process and only makes it clear that the filing deadline for the notice of approval is as set forth in Section 4.

Section 10 In this **Single Unit housing** program which is approved only by cities, there is no substantive change to the program. The bill only makes it clear that the filing deadline for the notice of approval is as set forth in Section 4.

Section 11 In this **Vertical Housing** program, the change proposed would have the approving entity, in this case the Housing and Community Services Department, notify the assessor as provided in Section 4.

Section 12 and 13 In this **Residential Rehabilitation** program, the applicant can file with the city or county anytime (after completion of the rehabilitation). The changes in this Section make it clear that the city or county would then file its notice of approval in conformance with Section 4.

Section 14 This is an "applicability" section. It makes the changes in Sections 5 through 13 apply to tax years beginning on or after July 1, 2014. Two points of clarification. 1) These changes only apply to new applicants seeking their first year of exemption. For all who are already in these programs, as long as there is no annual application required, these persons would not be affected. Nonprofit corporation low income housing has an annual filing requirement. 2) The first time these changes to the notice of approval to the assessor are effective is April 1, 2014. This is the filing deadline for the 2014-15 tax year.

Section 15 and 16 apply to government to government leases**. Issue:** current law has an application requirement that local governments often miss. This has generated special bills in previous sessions to address this issue. The concept here takes a more proactive approach by providing an optional alternative notice requirement that allows the government to notify the assessor **only when** a new lease is signed. This is an alternative to the current law that requires an application by the leasing entity. It also removes the filing deadline and late filing provisions. Applies to existing and future government leases.

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Sections 17 through 21 strives to bring standardization to the way disqualification and additional taxes are calculated.

Section 17 For **Nonprofit Corporate Low Income Housing** this section makes consistent with other programs the way additional taxes are collected. This is the "10 years or as reduced for # of years since left program" method.

Section 18, 19 and 20 For the **Vertical Housing program**, In Section 18 the language for disqualification is removed and that language is pasted into Section 20. In 20 we are adding the disqualification and additional tax language. For vertical housing there is not currently an additional tax assessed upon disqualification. This program has a low income component so for purposes of standardization it seemed reasonable to add that claw back provision similar to these other low income housing programs.

Section 21 establishes applicability of these changes to the two programs addressed in section 17, 18 and 20. For Section 17, everyone in the program gets the benefit whether approved previously or in the future. For Vertical housing (18 and 20) this makes it applicable **only** for new applicants. There are not many disqualifications.

Section 22-24 These sections amend the **Farm Labor Camp / Child Care Facility** exemption (page 241 of the Tax Expenditure Report). Sections 22 and 23 work together to put the responsibility for obtaining the confirmation of compliance from OR-OSHA or the State Fire Marshal on the applicant rather than on the assessor.

As background, we understand this exemption to have been created in part in response to the Oregon Safe Employment Act (OSEA), which created health code requirements for farm labor camps related to employment and may have preceded building codes as we know them today.

Section 24 makes the changes applicable to exemption claims filed by April 1, 2014 for the 2014-15 tax year, and for subsequent years.

Sections 25 - 27 These sections affect "property of a housing authority" where another entity owns the housing property but the housing authority is actively involved in the property as allowed under ORS 307.092. That exemption currently has no application requirement, but the assessors don't have an automatic way of knowing the property qualifies for exemption (because the deed might not indicate the involvement of the housing authority). To be consistent with other programs, Section 25 makes the exemption contingent on a one-time filing for exemption (under ORS 307.162, by April 1 or as allowed under late filing provisions).

Section 28 Applies to the **Alternative Energy Systems** exemption. In 2011 you amended this exemption to change the property to which this exemption applies. In error, we believe,

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Section 4 of the 2011 amendments placed a sunset on the 2011 amendments not the exemption itself.

Oregon Laws Chapter 655 (3 and 4) 2011

SECTION 3. ORS 307.175 is amended to read:

307.175. (1) **As used in this section, "alternative energy system" means** property [*equipped with*] **consisting of** solar, geothermal, wind, water, fuel cell or methane gas energy systems for the purpose of heating, cooling or generating **electricity.**[*electrical energy shall be exempt from ad valorem taxation in an amount that equals any positive amount obtained by subtracting the real market value of the property as if it were not equipped with such systems, from the real market value of the property so equipped.*]

[*(2) This section applies to tax years beginning prior to July 1, 2012.*]

[*(3) Except as provided in subsection (4) of this section, this section does not apply to property owned or leased by any person whose principal business activity is directly or indirectly the production, transportation or distribution of energy, including but not limited to public utilities as defined in ORS 757.005 and people's utility districts as defined in ORS 261.010.*]

[*(4) This section applies to an alternative energy system that is owned or leased by a person whose principal business activity is directly or indirectly the production, transportation or distribution of energy if the system is a net metering facility, as defined in ORS 757.300, or other system primarily designed to offset onsite electricity use.*]

(2) An alternative energy system is exempt from ad valorem property taxation if the system is:

(a) A net metering facility, as defined in ORS 757.300; or

(b) Primarily designed to offset onsite electricity use.

(3) Notwithstanding ORS 307.110 and 308.505 to 308.665, any portion of the real property to which an alternative energy system is affixed is exempt under this section if:

(a) The real property is otherwise exempt from ad valorem property taxation; and

(b) The alternative energy system is exempt under this section.

(4) Property equipped with an alternative energy system is exempt from ad valorem property taxation in an amount that equals any positive amount obtained by subtracting the real market value of the property as if it were not equipped with an alternative energy system from the real market value of the property as equipped with the alternative energy system.

SECTION 4. The amendments to ORS 307.175 by section 3 of this 2011 Act apply to tax years beginning on or after July 1, 2011, and before July 1, 2018.

Section 28 of this bill then makes it clear that the 2011 amendments apply going forward. It makes the sunset in section (2) apply to the exemption itself and not just the 2011 changes.

Section 29 creates an effective date for this act 91 days following sine die.

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