HB 2486 - Urban renewal categorization

- **This bill removes three subsections in the statues that specify how taxes are to be categorized and replaces them with clear direction for the local government to make the determination.**

- **Measure 5 passed in 1990 and required all taxes levied for general government purposes be assigned to a category that is limited to a total tax rate of $10 per 1000 real market value.**

- **Measure 5 also required that all taxes levied for education purposes be categorized under the education category and that category is limited to $5 per $1000 of real market value.**

- **When you think of a "general government" purpose you might think of a city, library or a county tax. When you think of an education purpose you might think of k-12, community college or an ESD.**

- **All local governments categorize their own levies and certify them to the county assessor by law except urban renewal agencies.**

- **Urban renewal taxes by law are calculated by the assessor and the assessor has to put them into one of the two categories. Until recently the law provided that they be categorized into the general government category.**

- **The Oregon Supreme Court Opinion in *Urhausen* determined that "Property tax revenues are deemed to be dedicated to funding the public school system if the revenues are used exclusively for educational services…"**

- **Because only the urban renewal agency can know how the revenues are to be expended, only the urban renewal agency is in the position to categorize the property taxes it is to receive.**

- **This bill removes the assumption in the statutes regarding how urban renewal agencies will expend tax revenues and places that decision in their hands.**

- **The bill does not require agencies to categorize under any specific category.**

- **This bill does not lower taxes for schools.**

- **This bill is consistent with the constitution as determined by the court.**

- **This bill does not preempt a challenge to the categorization of a tax by an urban renewal agency by anyone affected.**

- **I urge your passage.**

Problem

Supreme Court Decisions have rendered three subsections in ORS Chapter 310 unconstitutional. The two statutes in question dictated how urban renewal agencies must categorize their "levy".

This concept follows on the heels of the department removing similar language from our administrative rule. The rule was predicated on the underlying statute.

Solution

Amend ORS 310.150 to remove subsection (7) and ORS 310.155 to remove subsections (2) and (3) because as they are contrary to the constitution as determined by the Supreme Court.

Add a requirement that urban renewal agencies categorize their taxes pursuant to the provisions of the Oregon Constitution on a form provided by the Department of Revenue.

Background

Measure 5 passed in 1990 created two categories into which most taxes billed on the property tax statement are to be placed. One category is general government and the other is education. All levies and taxes for local governments that will be expended for general government purposes must be categorized by each taxing district under the general government category. All levies and taxes for local governments that will be expended for educational purposes must be categorized by each taxing district under the education category. Each category has a limit, $10 for general government and $5 for education.

Each local government must certify to the assessor into which category their tax is to be placed.

This is true for all local governments except the taxes of urban renewal agencies.

Generally it is understood that a city, county, fire district, park and recreation district for example carry out general government functions and generally it is expected that a school district a community college and an ESD would levy and expend their revenues for education purposes. However, the law allows anyone to challenge the categorization in the tax court. There have been circumstances where a city has levied taxes that they said would be directed to educational purposes and which appropriately were categorized under the education category.

The taxes for urban renewal mathematically is complex but essentially are generated by multiplying the tax rates of all taxing districts by an artificially established portion of the value in each of these districts. The law has always placed the responsibility for categorization for urban renewal taxes on the county assessor since unlike other local governments an urban renewal agency does not "certify a levy". Urban renewal agencies exist under the constitution and law to remove "blight" and thereby encourage development and investment from the business

community. Historically, urban renewal agencies authorized to remove blight set about improving infrastructure, providing grants, and generally encouraging business and livability issue and not conducting improvements in the education arena. This has changed.

Quote from the *Urhausen* decision rendered by the Oregon Supreme Court,

> **"The Tax Court concluded that the city's revenue categorization was not consistent with the Measure 5 requirements. In so holding, the Tax Court declared ORS 310.155(3) unconstitutional and required that revenues be categorized according to their intended use and the purpose for which those revenues were raised. For the reasons that follow, we affirm the Tax Court judgment."**

Stakeholders outreach

We met several times with representative from the cities and urban renewal agencies as well as the private bar and certain interested taxpayers over the last nine months. Additionally we met with county assessors. Several assessors expressed concern over how they might calculate tax in the event an agency certified under the "education" category.