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SENATE BILL 611A

Comments to the House Revenue Committee
by Gil Riddell, AOC Policy Director, on March 10, 2015.

Initial observations of the Association of Oregon Counties on Senate Bill 611A:

SB 611A was a product of hard work and difficult decisions made in a rushed and opaque process by a serious-minded Senate Finance & Revenue Committee. Indeed this may have been the only way to get the conversation started productively on a long-term, exceedingly complex issue that has haunted the Legislative Assembly for at least 30 years. In fact, when an open process from the beginning of reform discussions was attempted in the past, it invariably ended without resolution with centrally assessed companies either squabbling among themselves or asking for far too much (e.g., complete elimination of intangible values, as if the intangible values could be isolated and separately determined). And the inevitable results were lawsuit after lawsuit, draining taxpayer revenues away from productive programs in both the public and private sectors. So hats off to the Senate committee.

The committee did a fine job with sections related to data centers. AOC fully supports the current amendments in the bill that modestly and carefully liberalize standards and protect data centers from central assessment. **We recommend that the sections of SB 611A related to data centers be left alone.**

SB 611A, probably because of the committee's need for quick action and minimal public debate, left serious questions for the House Revenue Committee to open up and answer.

- *What is the explanation for the ballooning of loss of critical local property taxes, on which local governments must rely to protect and enhance communities?* The initial design of reform of central assessment, based on "historic costs", was based on hard data, with minimal ambiguity, permitting the Department of Revenue to calculate the assessment in a clear manner. Using an arguably arbitrary factor as a surrogate for intangible value did provide an opportunity for a creative lawyer to sue on behalf of a centrally assessed company, but as a method of valuation it was superior to calculation of depreciation, which DOR was unprepared to do. And the tax break for "legacy" companies (using a factor of 130%) was significant and appropriately targeted to those in the communications business (i.e., effecting less than 15 companies): $2.3 million annually statewide off the books immediately and thereafter, again, of local

revenues. The counties' share of the annual loss ($437,000) seemed acceptable given the incentive-based opportunity of community development and a reduction of wasting lawsuits. SB 611A, however, after about four more designs of formulas for exemptions, ultimately provided tortuous choices of calculations increasingly benefitting legacy companies that resulted in an eye-popping, *exponential increase* in loss of public revenue of an estimated $16.2 million annually and a blurred focus on incentives for new development (at least 21 legacy companies were now benefitted).

- *A major contributing factor of this exponential increase in loss of property tax revenue is likely the late-coming exemption for the value of franchises and their favorable treatment in the formulas*. Unlike the other two key exemptions (Federal Communication Commission license and satellites, with FCC license related to the satellite), which are calculated in the initial determination of value of the company, franchises were removed from the valuation formula and became a subtraction to Assessed Value. This, of course, avoids any reduction to the full value of the franchises under Measure 50 (1997). *What is the cost of the three key exemptions within the calculations? Is one significantly greater than the others? If so, why should not they be equalized for fairness among the companies, or better yet, reduced by caps to more reasonable amounts?*

- It is disturbing to be ignorant of whether there was a quid-pro-quo for this exponential increase in costs to local public revenues. *Fourteen companies have appealed their assessed valuations in Oregon Tax Court, costing themselves and the public attorney fees. If settlement of these appeals was not on the table in trade during discussion of the final formulas for exemptions, why not?*

Please consider this list of observations to be incomplete at this point. AOC intends by these comments to point out the most apparent questions to be explored and answered by your committee.

We look forward to be fully involved in your proceedings with the intention of finding the right balance of incentives for community development and foregone local public revenues, which are critical to protect and enhance Oregon's communities.