Senate Bill 611A – Background, Key Elements & Revenue Impact

Background

Beginning with the 2009-10 tax year, reflective of general industry changes, Department of Revenue changed its interpretation of a communication company as defined in ORS 308.505(3). This change resulted in companies being subject to central assessment that were previously locally assessed. This change in interpretation was upheld by the Oregon Supreme Court in Comcast Corporation v. Department of Revenue (issue related to maximum assessed value remanded to Tax Court). The result of interpreting more companies as being "communication" companies and therefore subject to central assessment is the inclusion of those company's tangible and intangible value in their property tax assessment (local assessment relates to tangible value only). The composition of a communication company's tangible and intangible value can vary considerably. High levels of intangible to tangible value can result in tax assessments several times greater than what would be assessed if the assessment was based on tangible value only (locally assessed). This can be especially acute for companies newly investing tangible communication property in Oregon.

Bill Changes

The bill provides three tiers of possible relief from central assessment intangible taxation. No provisions would cause increase in tax liability for companies.

1. (Tier 1) Changes to centrally assessed properties, provides relief to existing and potential companies including those making investments not large enough to qualify under the tier 2 investment described below
    a. Creates alternative valuation cap based on historic cost of system wide (unitary) <u>tangible</u> property multiplied by 130%. Establishes tax floor under new calculation equal to 5% of total unitary value (eliminates possibility of tax being reduced to zero)
    b. Exempts booked franchise value and applies exemption to assessed value in Oregon
    c. Exempts booked value of satellites for companies providing communication services directly to retail customers. Allows exemption of FCC licenses when FCC licenses are used in conjunction with exempt satellites.
    d. Limits use of multiple exemptions with the exception of FCC licenses used with exempt satellites and Enterprise Zone or Strategic Investment Zone exemptions.

2. (Tier 2) Special Exemption for Qualified Projects (bill language necessitates these being large new investments)
    a. Projects must provide communication infrastructure that meets standards in bill and subject to PUC qualification oversight
        i. Standards include:
            1. symmetrical speed at or above 1 gigabit
            2. price to customers not to exceed 150% of US comparable price average
            3. Access to certain percent of market within service territory
        ii. Exemption limit of 20 years
        iii. PUC to recertify projects every 5 years
        iv. Annual reporting requirements to Legislature
    b. If new property investment receives certification, new property will be valued for property tax purposes as the greater of:
        i. $250 million or

ii. The total real market value of tangible real and personal property the company has in Oregon
iii. Imposes application fee of $50,000 to offset costs for DOR and PUC.

3. (Tier 3) Clarification of Tax Treatment for Companies with Data Center(s) in Oregon
   a. Owning and operating a data center in Oregon will not subject a company to central assessment if certain conditions are met. Company would be subject to local assessment, which does not include the value of intangible property.
      i. Primary condition
         1. Primary condition is that historic or original cost of all real and tangible personal property owned or leased by the company in Oregon other than data centers, and used in the business of communication, equals 10% or less of the historic or original cost of all real and tangible personal property owned or leased by the company relating to data centers.
         2. Property unrelated to data centers is not considered in computing the value of property subject to the 10% cap.
         3. Section specifically lists property not to be subject to 10% cap, although the list is not comprehensive (i.e. – all property in the list would not be subject to 10% cap threshold, but not all property not subject to 10% cap is included in list).

Revenue Impact

	Fiscal Year			Biennium		
	2015-16	2016-17		2015-17	2017-19	2019-21
Local Government		**(8.9)**		**(8.9)**	**(18.4)**	**(19.3)**
Local Education Districts		**(7.3)**		**(7.3)**	**(15.1)**	**(15.8)**
Total Revenue Loss		**(16.2)**		**(16.2)**	**(33.5)**	**(35.0)**

Centrally Assessed Imposed, Deferred Billing Credits and Estimated Imposed under Historic Cost 130% Cap, Franchise Agreement Exemption & Satellites Exemption

Fiscal Year	Centrally Assessed Imp Excluding DBCs	Deferred Billing Credits	Total Current Law Imposed	Est. Imp HC 130% Cap w/Franchise, Satellite Exemptions
2008-09	176.1	0	176.1	
2009-10	207.8	11.9	219.7	
2010-11	209.2	13.3	222.5	
2011-12	223.4	16.4	239.8	
2012-13	225.1	19.4	244.5	
2013-14	235.6	23.7	259.3	
2014-15*	250.1	28.7	278.8	263.0

*DBC for 2014-15 estimated | $'s in Millions