Testimony of Rebecca Hall, 3/31/15
HB 3034

Introduction

Thank you, Mr. Chair and committee. I'm Rebecca Hall and I'm an analyst with the Property Tax Division of the Department of Revenue. I'm here today to provide background and context for your consideration of HB 3034.

The construction and application of the charitable exemption in ORS 307.130 has been problematic for some time. County staff processing charitable exemption applications can find themselves at a loss trying to decide what is charitable and how much charity is enough.

Court cases construing ORS 307.130 are not always helpful since the preferred standard of evaluation is subjective and there are no bright lines to define charity. This creates an administrative burden for assessors, and can lead to litigation and lack of uniformity.

These perceived problems led county assessors to form a Charitable Exemption Workgroup facilitated by the Department of Revenue. The assessors' goal is to make it easier and more consistent for them to administer the legislative policies embedded in the exemption.

In this process, the decision was made to initially focus on charitable exemptions for hospitals and related medical clinics for several reasons.

- Pending appeals have highlighted problems with evaluating claims for exemptions when hospitals acquire previously for-profit clinics.
- Hospitals / medical providers are a little unique in the charitable world since the bulk of their operating revenue comes from fees rather than donations – so individual treatment of hospitals, separate from other charitable organizations, makes sense.
- Landscape changing due to the Affordable Care Act so now may be a good time to act.

Context

The Oregon property tax exemption for charitable organizations dates back to at least 1854. At that time, hospitals exclusively served the poor and insane. If you were wealthy, you could afford to have a doctor come to your home to treat you. Only the poor had to go to a hospital and be treated in a ward with others.

In the late 1800s, medical developments began making hospital care more attractive to wealthy patients and hospitals started charging fees for services to those who could pay. The money from paying patients was used to care for poor patients.

Over time, house calls by doctors faded away, in favor of a hospital and clinic model of health care.

This change in health care is reflected in the policies set out in both federal and state taxation laws and cases. As hospitals started charging for services, courts began crafting general rules and benchmarks for detecting charity where hospitals charge for services.

In 1913, the newly created federal income tax did not provide for a per se exemption for hospitals. They had to qualify as charitable organizations under § 501(c)(3) of the Internal Revenue Code, and had to be operated primarily for charity.

In 1956, as more and more patients paid for services, the IRS issued a Revenue Ruling that required exempt hospitals to provide charity care to the extent of their financial ability.

The enactment of Medicare and Medicaid in 1965 allowed many of the poorest people access to medical care and curtailed hospitals' opportunities to provide charity. As a result, in 1969, the IRS established the Community Benefit Standard, which required charitable hospitals to accept Medicare and Medicaid patients, provide 24 hour emergency care, extend hospital privileges to all qualified physicians, maintain a community-controlled board, and provide charity to the extent of the hospital's financial ability.

Oregon's charitable hospital jurisprudence has followed a similar progression. In 1927, the Oregon Supreme Court, in the *Sisters of Charity* case, said that hospitals have no inherent tax exemption, but could qualify for exemption under the charitable organization statute as long as they provided services free to any who needed them. In 1961, in the *Oregon Methodist Homes* case, the Oregon court set out seven tests for deciding if a hospital that charges for services is charitable. And more recently in 2014, the Tax Court decision in the *Serenity Lane v. Lane County Assessor* case, considered factors such as free education for health care providers, and community outreach in making its determination.

The passage of the Affordable Care Act led to the 2010 enactment of § 501(r) of the Internal Revenue Code. Now, to comply with the ACA and qualify for federal income tax exemption, charitable hospitals must:

- Establish written financial assistance and emergency medical care policies
- Limit amounts charged to individuals eligible for financial assistance
- Make efforts to determine eligibility for financial assistance before taking some collection actions
- Conduct a Community Health Needs Assessment and implementation strategy at least every three years.

Other states

Our neighboring states have taken differing approaches to property tax exemptions for hospitals.

In Washington, hospitals only need to be nonprofit acute care facilities to be exempt, and medical clinics associated with the hospital are exempt only if the clinic is fully integrated with the hospital and its administration. If they meet the statutory requirements, some other types of

clinics may be exempt, for example tissue storage banks, medical research facilities, and cancer clinics.

The approach in California is similar to Oregon, except they've bifurcated the decision making so that the state Board of Equalization determines if the organizations itself is eligible, and the local county assessors determine if the use of the property itself qualifies.

In Idaho, few hospitals qualify for exemption under their general charitable exemption statute because there is less charity being provided as a result of an Idaho law that allows charity write-offs from low income patients to be billed to the county to recover costs not billed to the patient. However, there is a hospital specific Idaho statute that exempts nonprofit 501(c)(3) hospitals meeting a specific definition.

Over the years, the nature of hospitals, how they provide services, and how they are paid for those services has changed significantly. I will leave it to others to speak to how the bill before you addresses those changes.

Thank you.