

Christopher K. Robinson P.C.

A Professional Law Corporation
PROPERTY TAX CONSULTING AND REPRESENTATION

June 19, 2017

Senate Revenue and Finance Committee
ATTN: Senator Mark Hass
900 Court St. NE, S-207
Salem, Oregon 97301
Sen.MarkHass@state.or.us

Re: HB 2407

Dear: Senator Hass and Members of the Senate Revenue and Finance Committee,

My name is Chris Robinson, I have been an attorney for forty years. My firm represents taxpayers in valuation appeals on all types of properties. I would estimate that close to ninety-five percent of our tax court appeals involve valuation disputes in excess of \$1,000,000.00. The deferred billing credit program has been used sparingly since its inception. That will change if HB 2407 becomes law. I would expect that assessors would likely use the deferred billing credit in all appeals involving valuation disputes over \$ 1,000,000.00. Under the current process the county either issues a credit or an actual refund to the taxpayer. If HB 2407 becomes law, counties will be using taxpayers money.

The original impetus behind the deferred billing statute was an attempt to allow counties to mitigate its potential loss of tax revenue for those more complex appeals which can take years to resolve. Comcast is an example. When a tax appeal proceeds to trial, litigants might have to wait close to one year for the court to issue its decision. With HB 2407, if the taxpayer prevails the taxpayer is paid virtually no interest while the county and taxing districts have the use of taxpayer's money. It is akin to an interest free loan. This is not fair.

By passing this bill you eliminate a substantial motivating factor for counties and the Department of Revenue to resolve appeals. Instead of issuing a deferred billing credit or tentative refund counties retain taxpayer's payments and place into an escrow account to minimize the accrual of interest.

The current statute provides motivation for taxpayers to pay taxes timely and for county assessors and Department of Revenue to resolve appeals (ORS 311.812 (3)(a) and ORS 311.505 (2)). It would patently be unfair to pay little interest to a prevailing taxpayer while at the same time counties continue to collect delinquent taxes at the rate of sixteen percent. The intent of HB 2407 may have been to deal with cases like Comcast; however, HB2407 will likely apply to a very high percentage of Tax Court Appeals.

Doug Schmidt testified at the first public hearing. He stated that the assessors association was opposed to HB 2407. He also said there is no need to amend the statute (see testimony attached). Litigation can last years. Taxpayers may wait close to a year after trial to get a decision. Is it fair that the county gets to keep taxpayers money and one half of one percent if the taxpayer finally prevails?

I am asking you on behalf of taxpayers to vote against this measure. This is really a question of fairness. HB 2407 will have broad implications that I do not think were intended.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christopher K. Robinson', written over a horizontal line.

Christopher K. Robinson



POLK COUNTY

POLK COUNTY COURTHOUSE ★ OFFICE: 503-623-8391 ★ FAX: 503-831-3015
DALLAS, OREGON 97338-3180

ASSESSOR'S OFFICE

DOUGLAS SCHMIDT
Assessor

March 1, 2017

House Committee on Revenue - HB 2407

Chair Barnhart, members of the committee, thank you for allowing me to testify today. My name is Douglas Schmidt, I am the Polk County Assessor and I am here today testifying on behalf of the Oregon State Association of County Assessors (OSACA).

At this time, OSACA has chosen to **Oppose** HB 2407. ORS 305.286, the Deferred Billing Credit statute, was instituted in 2011. We believe this law is doing exactly what it was intended to do, protecting taxing districts from large single year refunds.

For background, in 2009 when the Oregon Department of Revenue (DOR) took over the valuation of Communications Companies such as Comcast, Direct TV and others, there was concern the appeals generated from this action could cause large single year refunds from the taxing districts in the event DOR lost those appeals. ORS 305.286 came about due to a collaborative effort between the Association of Oregon Counties and numerous taxing districts.

The Deferred Billing Credit statute is not only for communications or centrally assessed properties. The provisions of the law can be, and have been, used on other locally assessed high value property appeals. Normally, the appeals process is 2 to 3 years so Comcast and the other communications companies are not the typical example of an appeal timeline.

It is important to point out that companies taxed under the Deferred Billing Credit statute do not have a choice in whether they are or are not subject to the statute. Applying this statute is a loss mitigation risk reduction decision based solely on the assessor's discretion in buffering taxing districts. This is not a company decision or even request.

If a company loses the appeal they do not have to pay interest plus the taxpayer will get the 3% discount, **if they pay the back taxes timely** as identified in ORS 305.286. This is no different, but on a much larger scale, than potential additional taxes posted to an account when property is removed from Farm Use Special Assessment. The potential additional tax could sit on a property for 2 years, 10 years or 20 years and does not accrue any interest. When the taxes become due and payable, the taxpayer will receive the 3% discount if they pay timely.

There is concern that communications companies who are benefitting from the Deferred Billing Credits are taking advantage of the taxing districts by investing the deferred taxes and making money. That may be true, but that does not affect the purpose or intent of ORS 305.286.

As stated earlier, OSACA Opposes changes to ORS 305.286 and believe it is accomplishing what it was intended to do.

If the committee believes there is a valid concern with ORS 305.286, an option to HB 2407 would have the taxpayer pay the full amount of the taxes levied. Any taxes the assessor determines to meet the Deferred Billing Credit criteria would be placed in an interest bearing account administered by the county treasurer. When the appeals are finished, the taxes with interest, would be paid to the districts or to the taxpayer. Understand, this option has not been vetted by treasurers or any other parties and it should be before given any serious consideration.

Thank you. If you have questions I will try and answer them.