

**SB 757 A STAFF MEASURE SUMMARY**

**Carrier:** Sen. Roblan

**Senate Committee On Judiciary**

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**Action Date:** 02/20/19

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 6-0-1-0

**Yeas:** 6 - Bentz, Gelsler, Linthicum, Manning Jr, Prozanski, Thatcher

**Exc:** 1 - Fagan

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Channa Newell, Counsel

**Meeting Dates:** 2/20

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**WHAT THE MEASURE DOES:**

Allows counterclaims to be included in responsive pleadings of appeals filed in tax court.

**ISSUES DISCUSSED:**

- Process for hearing in magistrate division of tax court
- Practice of allowing counterclaims by defendants in appeals to Oregon Tax Court
- Appeals by defendant county assessor or Department of Revenue of magistrate division decisions are infrequent, such as when assessor asks court to determine total value or real market value of property
- Court decisions result in assessors considering filing appeals in many cases in order to preserve ability to make counterclaim

**EFFECT OF AMENDMENT:**

Makes technical clarification that Rules of Civil Procedure apply to counterclaims.

**BACKGROUND:**

In 1995, the Legislature created the magistrate division of the tax court. A person who is dissatisfied with a decision of the Department of Revenue is entitled to a hearing before the magistrate division but is also provided a process to appeal to the Oregon Tax Court. Caselaw has interpreted the statutes regarding the appeals process to prohibit a party who "disagrees with a magistrate decision to raise that disagreement by counterclaim." *Village at Main Street, Phase II, LLC v Department of Revenue*, 22 OTR 52, 57 (2015). In effect, the decision mandated that a separate complaint must be filed by a defendant who disagrees with any portion of a decision of a Tax Court Magistrate, even if the other party had already filed an appeal.

Senate Bill 757 A specifies that any party named as a defendant in an appeal before the tax court may include one or more counterclaims in the responsive pleadings.