

A-Engrossed
House Bill 2684

Ordered by the House April 19
Including House Amendments dated April 19

Sponsored by Representative NOSSE; Representative SMITH WARNER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Repeals exemption for property of company that builds, maintains and operates project constituting certain communication services infrastructure.

Provides one-time special assessment of intangible property of certain companies in lieu of exemption repealed by Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax exemption for the property of a company that builds certain communication services
3 infrastructure; creating new provisions; amending ORS 308.519 and 308.674 and section 11,
4 chapter 23, Oregon Laws 2015; repealing ORS 308.673, 308.677 and 308.681; and prescribing an
5 effective date.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. ORS 308.673, 308.677 and 308.681 are repealed.**

8 **SECTION 2.** ORS 308.519 is amended to read:

9 308.519. (1) The following real and tangible personal property used or held for future use by a
10 company described in subsection (2) of this section shall be locally assessed:

11 (a) Property constituting a data center or used in connection with the operation of data center
12 property;

13 (b) Property used on the data center property to generate electricity; and

14 (c) Electricity generated by property described in paragraph (b) of this subsection.

15 (2) Subsection (1) of this section applies to a company that is:

16 (a) Not a company described in ORS 308.515 (1); or

17 (b) A company described in ORS 308.515 (1) *[and]* **if** the historical or original cost of the real
18 and tangible personal property of all data centers owned, leased or used by the company in Oregon
19 and all additions to the data center property, excluding property described in subsection (1)(b) and
20 (c) of this section, is equal to or greater than \$200 million.

21 (3)*[(a)]* For purposes of ORS 308.505 to 308.681, property described in subsection (1) of this sec-
22 tion, and intangible personal property that is related to the property, may not be included in any
23 unit subject to central assessment.

24 *[(b) Notwithstanding paragraph (a) of this subsection, property that is used or held for future use*
25 *by a company whose property is granted an exemption under ORS 308.677 and that would otherwise*
26 *be assessed under this section shall be assessed under ORS 308.677.]*

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **SECTION 3.** ORS 308.674 is amended to read:

2 308.674. (1) [*Subject to ORS 308.673,*] The property of a company described in ORS 308.515 (1)
3 shall be granted an exemption in the amount of the positive value, if any, obtained by subtracting
4 from the real market value of the company's real property and tangible and intangible personal
5 property included in the unit subject to central assessment, reduced by the amount of any exemption
6 elected under ORS 308.671, an amount equal to the historical or original cost of the company's real
7 property and tangible personal property included in the unit subject to central assessment, without
8 reduction for any exemption elected under ORS 308.671, multiplied by 130 percent.

9 (2) If the amount determined under subsection (1) of this section is not positive, [*subject to ORS*
10 *308.673,*] the real market value of the company's real property and tangible and intangible personal
11 property included in the unit subject to central assessment, reduced by the amount of any exemption
12 elected under ORS 308.671, shall be the real market value of the company's property for the property
13 tax year.

14 (3) Notwithstanding subsection (1) of this section, an exemption granted under this section may
15 not exceed an amount equal to 95 percent of the real market value of the company's real property
16 and tangible and intangible personal property included in the unit subject to central assessment.

17 (4)(a) If the property of a company is granted an exemption under this section for a property tax
18 year, the property is not eligible for any other exemption from ad valorem property taxation for the
19 property tax year.

20 (b) Notwithstanding paragraph (a) of this subsection:

21 (A) An exemption granted under ORS 308.671 to property that is granted an exemption under
22 this section shall be allowed in the manner provided under this section and ORS 308.671.

23 (B) An exemption granted under this section for a property tax year has no effect on the benefits
24 that the property of the company or the company may be granted under ORS chapter 285C or ORS
25 307.123 for the property tax year.

26 **SECTION 4.** Section 11, chapter 23, Oregon Laws 2015, is amended to read:

27 **Sec. 11.** (1) [*Sections 8 and 10 of this 2015 Act*] **ORS 308.518 and 308.519** and the amendments
28 to ORS 308.505 and 308.516 by sections 7 and 9, **chapter 23, Oregon Laws 2015,** [*of this 2015 Act*]
29 apply to property tax years beginning on or after July 1, 2015.

30 (2) [*Sections 2, 3, 5 and 6 of this 2015 Act*] **ORS 308.674** and the amendments to [*ORS 307.126*
31 *by section 4 of this 2015 Act*] **ORS 308.671 by section 4, chapter 23, Oregon Laws 2015,** apply to
32 property tax years beginning on or after July 1, 2016.

33 **SECTION 5.** The amendments to ORS 308.519 and 308.674 and section 11, chapter 23,
34 Oregon Laws 2015, by sections 2 to 4 of this 2019 Act and the repeal of ORS 308.673, 308.677
35 and 308.681 by section 1 of this 2019 Act apply to property tax years beginning on or after
36 July 1, 2019.

37 **SECTION 6.** (1) Notwithstanding the repeal of ORS 308.677 by section 1 of this 2019 Act,
38 and any decision of the Department of Revenue made under ORS 308.677 (2015 Edition) before
39 the effective date of this 2019 Act, the intangible property of a company described in ORS
40 308.515 (1) shall be specially assessed as provided in subsection (2) of this section if:

41 (a) The company's application for a qualified project determination was approved by the
42 Public Utility Commission pursuant to ORS 308.677 (4) (2015 Edition) on or before March 1,
43 2016;

44 (b) The company began operating a qualified project on or before January 1, 2018; and

45 (c) The company has not settled any tax controversy with the department by entering

1 into a settlement agreement pursuant to which the company has withdrawn any claims, and
2 relinquished any entitlement, to the exemption granted under any version of ORS 308.677.

3 (2) Upon approval of a claim submitted under subsection (3) of this section by a company
4 meeting the requirements of subsection (1) of this section, the department, for purposes of
5 ORS 308.505 to 308.681, shall specially assess the company's intangible property at 75 percent
6 of the real market value of the intangible property.

7 (3)(a) A company seeking special assessment under this section must submit a claim to
8 the department within 30 days following the effective date of this 2019 Act.

9 (b) The department shall approve a claim that demonstrates that the company meets the
10 requirements of subsection (1) of this section. To demonstrate that the company is operating
11 a qualified project, it is sufficient for the claim to show that the company is providing resi-
12 dential communication services of, at least, approximately one gigabit per second symmet-
13 rical service.

14 (c) If the department approves a company's claim, the company's intangible property
15 shall be specially assessed as provided in subsection (2) of this section for the property tax
16 year beginning on July 1, 2019. The company's intangible property may not be specially as-
17 sessed under this section for any other property tax year.

18 (d) If the department rejects a company's claim, the department shall notify the company
19 of the decision.

20 **SECTION 7.** Section 6 of this 2019 Act is repealed on January 2, 2022.

21 **SECTION 8.** This 2019 Act takes effect on the 91st day after the date on which the 2019
22 regular session of the Eightieth Legislative Assembly adjourns sine die.
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