

Background

Under ORS 307.110, property of a “political subdivision of this state” is subject to taxation when the property is leased to a taxable entity, with certain specified exceptions. Under ORS 307.166, property of a governmental, or otherwise exempt, entity that is leased to another entity is only qualified for exemption where the lessee applies and qualifies for exemption. The body of property tax exemption law is generally based on the idea that exemptions are only granted for property leased to other entities where the lessee’s use meets some specified criteria for the exemption.

House Bill 2564

The bill would create the Willamette Falls Locks Authority as a public corporation exempt under ORS 307.090. Section 9(4) says a lease or finance agreement does not cause otherwise exempt property to be subject to property taxation. The language in that paragraph does not specify whether the intent is to explicitly exempt a lessee that obtains substantial occupancy and use of the property, or to only exempt a narrow category of lessee involved in financing of the Willamette Falls Locks Authority. Examples of the former could include restaurants, tour operators, or other businesses with leases to use or occupy the property. Examples of the latter could include lenders engaged in lease-purchase financing.

Recommendation

Clarify legislative intent as to whether or not provisions of the measure exempt only property leased under financing agreements where the lessee is not allowed substantial possession or use of the property. If that is the intent, then it is recommended that the word “lease” be deleted from Section 9(4).

Agency Contact

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