HB 3630 STAFF MEASURE SUMMARY

Senate Committee On Rules

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Meeting Dates: 6/20

WHAT THE MEASURE DOES:

The measure modifies the Estate Tax Natural Resource Exemption by expanding ownership requirements for qualified property to include ownership or beneficial interests in qualified property by businesses or trusts. It changes the look-back and look-forward requirements of decedent and heir participation in a qualified natural resource business using qualified property. It allows qualified property to be replaced in an exchange for other qualified property. It also excludes qualified property from the ratio used to calculate tax for estates with property both inside and outside Oregon. It applies to estates of decedents dying on or after July 1, 2025, and takes effect on the 91st day after sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon's Estate Tax is imposed when a property transfer is caused by the owner's death and is based on the value of property transferred. The tax applies above an excluded amount of $1 million with a tax rate of 10 percent. The tax rate increases with estate value, with the top rate of 16 percent for estates above $9.5 million. For estates with property inside and outside of Oregon, a ratio is applied to apportion the tax based on the percent of property in Oregon

The estate tax has an optional Natural Resource Credit for farm, forest, or fishing property in Oregon. Qualified property must be transferred to a family member and owned and used for specified purposes five out of eight years preceding and after a decedent's death. The credit reduces taxes in proportion to the value of natural resource property compared to all property (with up to $7.5 million in qualified property). The credit is available to estates with up to $15 million in adjusted gross estate if the specified property is at least 50 percent of all property value in Oregon.

This bill changes the provisions of the Natural Resource Exemption (added by SB 498 (2023)) that can be used instead of the Natural Resource Credit. The exemption is for up to $15 million of natural resource property that is transferred to family members because of a person's death. The exempt property must have been owned by the decedent for five years prior to death and owned by family members for five calendar years following the death. During that time the property must be used in a natural resource business and a family member must materially participle in the business for 75 percent of the days in each year.

The bill adds provisions to the Natural Resource Exemption allowing for business or trusts to be the direct owner of the qualified natural resource property. The business owners or trust distributees must be family members or other eligible businesses or trusts. It also allows for transfers between related entities and replacement of qualified property after decedent's death.

Changes are made to the exemption requirement that the decedent or a family member materially participate in the business 75 percent of the days of the five years preceding death, to 75 percent of "relevant business days" (defined in the bill) of the five years preceding death. The bill retains the requirement that family members materially participate for the five years subsequent to the decedents death, and removes the specification that qualification requires participation for 75 percent of the days following the decedents death.

Estates with property both inside and outside Oregon calculate tax based on the total taxable estate value, and then compute final tax by multiplying by the ratio of Oregon estate value to total estate value. This bill reduces the ratio and calculated tax for estates with property outside Oregon that use the Natural Resource Exemption by removing the amount of exempt natural resource property from both the numerator and denominator.