

A-Engrossed
Senate Bill 611

Ordered by the Senate February 27
Including Senate Amendments dated February 27

Sponsored by COMMITTEE ON FINANCE AND REVENUE

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.

[Directs Department of Revenue to study issue of central assessment.]

Grants property tax exemption to property of centrally assessed company in amount of positive value obtained by subtracting from real market value of company's real property and tangible and intangible personal property included in unit subject to central assessment, reduced by amount of certain elective exemptions, amount equal to historical or original cost of company's real property and tangible personal property included in unit subject to central assessment, without reduction for certain elective exemptions, multiplied by 130 percent. Provides amount of exemption may not exceed amount equal to 95 percent of company's real property and tangible and intangible personal property included in unit subject to central assessment.

Grants property tax exemption to property of centrally assessed company if company completes and maintains communication infrastructure project that meets certain service standards. Requires submission of application to Public Utility Commission with fee to be distributed equally to commission for costs of reviewing application and Department of Revenue for costs of appraising project property. Provides for exemption in amount of positive value obtained by subtracting from Oregon-allocated real market value of company's real property and tangible and intangible personal property included in unit subject to central assessment, reduced by Oregon-allocated amount of certain elective exemptions, amount equal to greater of \$250 million or real market value of company's real and tangible personal property located in Oregon, without reduction for certain elective exemptions. Provides exemption granted for lesser of 20 consecutive property tax years or period during which company maintains and operates communication infrastructure project.

Provides, for company eligible for both property tax exemptions, Department of Revenue shall compute property taxes on property under both exemptions and impose taxes that result in least amount of taxable value. Requires Public Utility Commission to report on property tax exemptions to interim committees of Legislative Assembly related to revenue no later than February 1 of each year.

Allows company that owns, leases or uses licenses granted by Federal Communications Commission, franchises used in business of communication or satellites used to provide communication services directly to retail customers and licenses granted by Federal Communications Commission related to use of satellites, to elect one of above types of property for property tax exemption. Provides value of property shall equal cost of property carried in accounting records of owner, less accrued depreciation reserve. Provides that value of franchises allocated to Oregon shall be subtracted from assessed value of company's property.

Removes, for purposes of exclusion from central assessment, requirement that data center company have tax abatement agreement with sponsors of enterprise zone. Clarifies that statute applies only to company in business of communication. Raises maximum allowable percentage of cost of property other than data center property and changes base to cost of property used in business of communication. Specifies certain noncommunication-related property excluded from determination of maximum allowable percentage. Provides that company is not subject to central assessment solely because company manufactures or sells property used by any person in communication.

Excludes from definition of "data transmission services" providing electronic mail accounts or search engine services solely by means of contractual agreement with another company that owns transmission property if providing such accounts or services are only data transmission services provided by company in Oregon.

Takes effect on 91st day following adjournment sine die.

1 Relating to central assessment; creating new provisions; amending ORS 307.126, 308.505 and 308.516;
2 and prescribing an effective date.

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

4 **SECTION 1. ORS 307.126 and sections 2, 3, 5, 7 and 10 of this 2015 Act are added to and**
5 **made a part of ORS 308.505 to 308.665.**

6 **SECTION 2. (1) The property of a company described in ORS 308.515 (1) may be granted**
7 **an exemption under section 3 of this 2015 Act or section 5 of this 2015 Act, but not both.**

8 **(2) For any company whose property is eligible for an exemption under both sections 3**
9 **and 5 of this 2015 Act, the Department of Revenue shall compute the property taxes on the**
10 **property under sections 3 and 5 of this 2015 Act for each property tax year and shall impose**
11 **taxes that result in the least amount of taxable value.**

12 **SECTION 3. (1)(a) Subject to section 2 of this 2015 Act, the property of a company de-**
13 **scribed in ORS 308.515 (1) shall be granted an exemption in the amount of the positive value,**
14 **if any, obtained by subtracting from the amount determined under paragraph (b) of this**
15 **subsection an amount equal to the historical or original cost of the company's real property**
16 **and tangible personal property included in the unit subject to central assessment, without**
17 **reduction for an exemption elected under ORS 307.126, multiplied by 130 percent.**

18 **(b) The amount referred to in paragraph (a) of this subsection is:**

19 **(A) For the property of a company that elects an exemption under ORS 307.126 (2)(a) or**
20 **(c), the real market value of the company's real property and tangible and intangible per-**
21 **sonal property included in the unit subject to central assessment, reduced by the amount of**
22 **the exemption elected under ORS 307.126.**

23 **(B) For the property of a company that elects an exemption under ORS 307.126 (2)(b) or**
24 **whose property is not eligible for an exemption under ORS 307.126, the real market value of**
25 **the company's real property and tangible and intangible personal property included in the**
26 **unit subject to central assessment.**

27 **(2) If the amount determined under subsection (1)(a) of this section is not positive, sub-**
28 **ject to section 2 of this 2015 Act, the amount described in subsection (1)(b) of this section**
29 **shall be the real market value of the company's property for the property tax year.**

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

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

37 **(b) Notwithstanding paragraph (a) of this subsection:**

38 **(A) An exemption granted under ORS 307.126 to property granted an exemption under**
39 **this section shall be allowed in the manner provided under this section and ORS 307.126.**

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

43 **SECTION 4. ORS 307.126 is amended to read:**

44 **307.126. (1) [Licenses granted by the Federal Communications Commission are exempt from ad**
45 **valorem property taxation, and the value of the licenses may not be reflected in the value of real or**

1 *tangible personal property.*] A company described in ORS 308.515 (1) that owns, leases or uses
2 property listed in subsection (2) of this section may elect one form of property to be exempt
3 from ad valorem property taxation. The value of the property elected may not be reflected
4 in the value of real or tangible personal property of the company.

5 (2) The property referred to in subsection (1) of this section consists of:

6 (a) Licenses granted by the Federal Communications Commission.

7 (b) If the company is in the business of communication as defined in ORS 308.505, fran-
8 chises.

9 (c) Satellites that are used by the company to provide communication services directly
10 to retail customers or that are being constructed for such use and Federal Communications
11 Commission licenses related to the use of the satellites to provide the communication ser-
12 vices.

13 (3) The value of the property listed in subsection (2) of this section shall be equal to the
14 cost of the property carried in the accounting records of the owner of the property, less the
15 accrued depreciation reserve for the property.

16 (4) For each property tax year that a company elects an exemption for franchises of the
17 company under this section, the value, as determined under subsection (3) of this section,
18 of the franchises includable in the unit subject to central assessment shall be multiplied by
19 the Oregon allocation percentage of the company's property for the property tax year and
20 subtracted from the assessed value of the property.

21 **SECTION 5.** (1) Subject to section 2 of this 2015 Act, the property of a company described
22 in ORS 308.515 (1) shall be granted an exemption under subsection (5) of this section if the
23 company completes, maintains and operates a qualified project in Oregon.

24 (2)(a) A project is qualified under this section if the project:

25 (A) Requires capital investment in newly constructed or installed real or tangible per-
26 sonal property constituting communication infrastructure.

27 (B) Enables the company to offer communication services at or above a speed of 1 gigabit
28 per second symmetrical service and at a price to customers that does not exceed 150 percent
29 of the United States average price for the same speed of symmetrical service. The Public
30 Utility Commission shall determine the maximum price of service and may update the stan-
31 dards for speed, type and price of service as the commission considers appropriate. The
32 commission shall recertify each qualified project under this subparagraph every five years.

33 (C) Provides access to communication services that meet the standards described in
34 subparagraph (B) of this paragraph to 50 percent or more of the customer base in the service
35 territory in which the communication infrastructure is constructed or installed. The com-
36 pany shall propose the service territory for the project in the application required under
37 subsection (3) of this section.

38 (b) The commission, in consultation with the Department of Revenue, shall adopt rules
39 that establish the criteria for determining whether a project is a qualified project.

40 (3)(a) A company seeking the exemption granted under this section must submit an ap-
41 plication to the commission, with a copy to the department, on or before January 15 pre-
42 ceding the first property tax year for which the exemption is sought.

43 (b) The application must include:

44 (A) Information substantiating that the project meets the requirements of subsection (2)
45 of this section;

1 (B) A schedule for the construction and installation of the real and tangible personal
2 property constituting the communication infrastructure; and

3 (C) An application fee of \$50,000.

4 (c) The application fee shall be distributed evenly to the commission and the department
5 to reimburse the commission for the costs of reviewing the application and the department
6 for the costs of appraising the property of the company submitting the application.

7 (4)(a) On or before March 1 of the year in which the application is submitted under sub-
8 section (3) of this section, the commission shall determine whether the project is a qualified
9 project. During this period, the commission may discuss the information included in the ap-
10 plication with the company and the department, and the company may amend the applica-
11 tion. Upon request of the company, the commission may grant an extension of not more than
12 two weeks for a determination under this paragraph.

13 (b) If the commission determines that the project is not a qualified project, the applica-
14 tion may not be approved. The commission shall notify the company of the negative deter-
15 mination and state the reasons. A negative determination under this subsection is not
16 reviewable, but a company may submit an amended application for the project under sub-
17 section (3) of this section in any subsequent year.

18 (c) If the commission determines that the project is a qualified project:

19 (A) The application shall be approved.

20 (B) The commission shall notify the company, the department and the assessor of each
21 county in which the project is located of the approval.

22 (C) Subject to section 2 of this 2015 Act, the property of the company shall be granted
23 the exemption under subsection (5) of this section beginning with the first property tax year
24 that begins after the date of the determination.

25 (5)(a) The property of a company described in subsection (1) of this section shall be
26 granted an exemption for a property tax year in an amount equal to the positive value, if
27 any, obtained by subtracting from the amount determined under paragraph (b) of this sub-
28 section an amount equal to the greater of \$250 million or the real market value of the
29 company's real and tangible personal property located in Oregon as of the assessment date,
30 without reduction for an exemption elected under ORS 307.126.

31 (b) The amount referred to in paragraph (a) of this subsection is:

32 (A) For the property of a company that elects an exemption under ORS 307.126 (2)(a) or
33 (c), the real market value of the company's real property and tangible and intangible per-
34 sonal property allocated to Oregon and included in the unit subject to central assessment,
35 reduced by the portion of the value of the exemption as determined under ORS 307.126 (3)
36 that is allocated to Oregon.

37 (B) For the property of a company that elects an exemption under ORS 307.126 (2)(b) or
38 whose property is not eligible for an exemption under ORS 307.126, the real market value of
39 the company's real property and tangible and intangible personal property allocated to
40 Oregon and included in the unit subject to central assessment.

41 (c) The exemption shall be granted for the lesser of 20 consecutive property tax years
42 or the period during which the company maintains and operates the qualified project.

43 (6) If the amount determined under subsection (5)(a) of this section is not positive, sub-
44 ject to section 2 of this 2015 Act, the amount described in subsection (5)(b) of this section
45 shall be the real market value of the company's property allocated to Oregon for the prop-

erty tax year.

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

(b) Notwithstanding paragraph (a) of this subsection, an exemption granted under ORS 307.126 to property granted an exemption under this section shall be allowed in the manner provided under this section and ORS 307.126.

SECTION 6. Notwithstanding section 5 (2)(a)(C) of this 2015 Act:

(1) For the property tax year beginning on July 1, 2017, a project is qualified under section 5 (2)(a)(C) of this 2015 Act if the project, as of January 15, 2017, provides access to communication services that meet the standards described in section 5 (2)(a)(B) of this 2015 Act to 30 percent or more of the customer base in the service territory in which the communication infrastructure is constructed or installed.

(2) For the property tax year beginning on July 1, 2018, a project is qualified under section 5 (2)(a)(C) of this 2015 Act if the project, as of January 15, 2018, provides access to communication services that meet the standards described in section 5 (2)(a)(B) of this 2015 Act to 40 percent or more of the customer base in the service territory in which the communication infrastructure is constructed or installed.

(3) For property tax years beginning on or after July 1, 2019, a project is qualified under section 5 (2)(a)(C) of this 2015 Act if the project, on and after January 15, 2019, provides access to communication services that meet the standards described in section 5 (2)(a)(B) of this 2015 Act to 50 percent or more of the customer base in the service territory in which the communication infrastructure is constructed or installed.

SECTION 7. (1)(a) Notwithstanding any other provision of law relating to the confidentiality of public records, on or before December 15 of each year, each assessor of a county in which property granted the exemption under section 5 of this 2015 Act, in accordance with section 2 of this 2015 Act, is located shall submit to the Department of Revenue a report stating the amount of the exemption granted to the property of each company, the amount of property taxes imposed on the property and the amount of property taxes that were not imposed on the property because of the exemption for the current property tax year and estimates of these amounts for the following property tax year.

(b) No later than January 1 of each year, the department shall submit a report compiling the information received from counties under paragraph (a) of this subsection to the Public Utility Commission.

(2) No later than February 1 of each year, the commission shall submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to revenue that states or describes:

(a) The name and business of each company whose property is granted the exemption under section 5 of this 2015 Act.

(b) For each company described in paragraph (a) of this subsection:

(A) The capital investment made by the company in Oregon in newly constructed or installed real or tangible personal property constituting communication infrastructure.

(B) Whether the company is on schedule for the construction and installation of the real and tangible personal property.

(C) The standards for the consumer services provided by the communication

1 **infrastructure and whether the company meets the standards.**

2 **(D) Who is served by the communication infrastructure and how they are served.**

3 **(E) The compiled information received from the department pursuant to subsection (1)**
4 **of this section.**

5 **(c) Any other information the commission considers necessary for a thorough analysis**
6 **of the exemption granted under section 5 of this 2015 Act.**

7 **SECTION 8.** ORS 308.516 is amended to read:

8 308.516. (1) A company is not a company described in ORS 308.515 (1) to the extent that the
9 company furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers.

10 (2) A company is not a company described in ORS 308.515 (1) if:

11 (a) The company generates electricity primarily for the company's own use and makes no more
12 than incidental sales of the company's surplus electricity to other persons; or

13 (b)(A) The company's generating facility is primarily fueled by wood waste or other biomass fuel;

14 (B) The generating facility has a maximum capacity of 20 megawatts; and

15 (C) The company, if selling the generated electricity, does so only directly to an electric utility,
16 as defined in ORS 758.505, for the electric utility's distribution to utility customers.

17 (3)(a) A company that **is in the business of communication as defined in ORS 308.505 and**
18 **is the owner or lessee of a data center is not a company described in ORS 308.515 (1) if[.]**

19 *[(a) The company has entered into a written tax abatement agreement, or is entitled by assignment*
20 *or succession to the benefits of a tax abatement agreement entered into, with the sponsors of an enter-*
21 *prise zone with respect to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to*
22 *285C.420; and]*

23 *[(b)(A) the original cost of construction and installation of all real and tangible personal property*
24 *owned or leased by the company in Oregon other than data centers does not equal more than five] **the***
25 **historical or original cost of all real and tangible personal property, other than data centers,**
26 **that is owned or leased by the company in Oregon, is in service and is used by the company**
27 **in the business of communication, is less than or equal to 10** percent of the **historical or ori-**
28 **ginal cost of the real and tangible personal property of all data centers owned, leased or used by**
29 **the company in Oregon and all additions to the data center property[; and].**

30 **(b) For purposes of this subsection, property other than data centers used in the business**
31 **of communication does not include property to the extent the property constitutes:**

32 **(A) An office;**

33 **(B) A warehouse;**

34 **(C) A manufacturing plant;**

35 **(D) A retail outlet;**

36 **(E) Property used in connection with a data center to generate electricity; or**

37 **(F) Electricity generated by property described in subparagraph (E) of this paragraph.**

38 *[(B) The property in Oregon other than data centers described in subparagraph (A) of this para-*
39 *graph consists of real or tangible personal property used in the operation of an office or a warehouse*
40 *or in connection with the construction, installation or operation of data center property.]*

41 *[(4)(a) Property of a company described in subsection (3) of this section may not be assessed under*
42 *ORS 308.505 to 308.665 during the term of an exemption granted pursuant to an agreement described*
43 *in subsection (3)(a) of this section or during the term of any statutorily authorized extensions of the*
44 *exemption, waivers or periods of in lieu payments.]*

45 *[(b) For purposes of the notations required under ORS 285C.175 (7) and 285C.409 (3), the county*

1 *assessor shall record the real market value, the assessed value and the amount of potential additional*
2 *taxes as determined without regard to ORS 308.505 to 308.665.]*

3 *[(5) If a company described in subsection (3) of this section owns or leases a data center in more*
4 *than one county in this state, each data center must satisfy all applicable requirements under subsection*
5 *(3) of this section.]*

6 *[(6)(a) As used in this section:]*

7 *[(A) "Data center" means an online service data center or an independent data center.]*

8 *[(B) "Independent data center" means real and personal property consisting of buildings or struc-*
9 *tures specifically designed or modified to house networked computers and data and transaction pro-*
10 *cessing equipment and related infrastructure support equipment, including, without limitation, power*
11 *and cooling equipment, used primarily to provide, as a service to persons other than the company op-*
12 *erating the independent data center, data and transaction processing services, outsource information*
13 *technology services and computer equipment colocation services.]*

14 *[(C) "Online service data center" means real and personal property consisting of buildings or*
15 *structures specifically designed or modified to house networked computers and data and transaction*
16 *processing equipment and related infrastructure support equipment, including, without limitation, power*
17 *and cooling equipment, used primarily to provide, to a single user, including the user's affiliates, cus-*
18 *tomers, lessees, vendors and other persons authorized by the user, data and transaction processing*
19 *services.]*

20 *[(b) For purposes of this subsection, the primary use of property is based on the relative proportion*
21 *of the original cost of property used for all purposes.]*

22 **(4) A company is not a company in the business of communication as defined in ORS**
23 **308.505 solely because the company manufactures or holds out for sale property used by any**
24 **person in communication.**

25 **SECTION 9.** ORS 308.505 is amended to read:

26 308.505. As used in ORS 308.505 to 308.665:

27 (1) "Car" or "railcar" means a vehicle adapted to the rails of a railroad.

28 (2) "Centrally assessed" means the assessment of property by the Department of Revenue under
29 ORS 308.505 to 308.665.

30 (3) "Communication" includes telephone communication and data transmission services by
31 whatever means provided.

32 (4) "Data center" means an online service data center or an independent data center.

33 (5) "Data transmission services" does not include providing electronic mail accounts or
34 search engine services solely by means of contractual agreement with another company that
35 owns the transmission property if providing such accounts or services are the only data
36 transmission services provided by the company in Oregon.

37 (6) "Historical or original cost" means all costs incurred by a company in placing prop-
38 erty in service for the property's intended use by the company, including, but not limited to,
39 purchase price, freight, engineering fees, legal fees, materials, labor, overhead, taxes, inter-
40 est, entrepreneurial profit and other fees, expenses and charges related to construction or
41 installation.

42 (7) "Independent data center" means real and personal property consisting of buildings
43 or structures specifically designed or modified to house networked computers and data and
44 transaction processing equipment and related infrastructure support equipment, including,
45 without limitation, power and cooling equipment, used primarily to provide, as a service to

1 **persons other than the company operating the independent data center, data and transaction**
2 **processing services, outsource information technology services and computer equipment**
3 **colocation services. For purposes of this subsection, the primary use of property is based on**
4 **the relative proportion of the original cost of property used for all purposes.**

5 [(4)] (8) "Inland water" means all water or waters within the State of Oregon, all interstate
6 rivers touching Oregon and all tidewaters extending to the ocean bars.

7 [(5)] (9) "Interstate" means transit between the State of Oregon and:

8 (a) Another state;

9 (b) A district, territory or possession of the United States; or

10 (c) A foreign country.

11 [(6)] (10) "Large private railcar company" means a private railcar company with personal
12 property with a real market value for the tax year that exceeds \$1 million.

13 [(7)] (11) "Locally assessed" means the assessment of property for property tax purposes by the
14 county assessor that is not conducted under ORS 308.505 to 308.665.

15 (12) "Online service data center" means real and personal property consisting of buildings
16 or structures specifically designed or modified to house networked computers and data and
17 transaction processing equipment and related infrastructure support equipment, including,
18 without limitation, power and cooling equipment, used primarily to provide, to a single user,
19 including the user's affiliates, customers, lessees, vendors and other persons authorized by
20 the user, data and transaction processing services. For purposes of this subsection, the pri-
21 mary use of property is based on the relative proportion of the original cost of property used
22 for all purposes.

23 [(8)] (13) "Person," "company," "corporation" or "association" means any person, group of per-
24 sons, whether organized or unorganized, firm, joint stock company, association, cooperative or mu-
25 tual organization, people's utility district, joint operating agency as defined in ORS 262.005,
26 syndicate, entity formed to partner or combine public and private interests, partnership or corpo-
27 ration engaged in performing or maintaining any business or service or in selling any commodity
28 as set forth in ORS 308.515, whether or not the activity is pursuant to any franchise and whether
29 or not the person or other entity or combination of entities possesses characteristics of limited or
30 unlimited liability.

31 [(9)] (14) "Property":

32 (a) Means all property of any kind, whether real, personal, tangible or intangible, that is used
33 or held by a company as owner, occupant, lessee or otherwise, for the performance or maintenance
34 of a business or service or for the sale of a commodity, as described in ORS 308.515;

35 (b) Includes, but is not limited to, the lands and buildings, rights of way, roadbed, water powers,
36 vehicles, cars, rolling stock, tracks, office furniture, telephone and transmission lines, poles, wires,
37 conduits, switchboards, machinery, appliances, appurtenances, docks, watercraft irrespective of the
38 place of registry or enrollment, merchandise, inventories, tools, equipment, machinery, franchises
39 and special franchises, work in progress and all other goods or chattels; and

40 (c) Does not include items of intangible property that represent:

41 (A) Claims on other property, including money at interest, bonds, notes, claims, demands or any
42 other evidence of indebtedness, secured or unsecured; or

43 (B) Any shares of stock in corporations, joint stock companies or associations.

44 [(10)] (15) "Property having situs in this state" means all property, real and personal, of a
45 company, owned, leased, used, operated or occupied by it and situated wholly within this state, and,

1 as determined under ORS 308.550 and 308.640, the proportion of the movable, transitory or migratory
2 personal property owned, leased, used, operated or occupied by a company, including but not limited
3 to watercraft, aircraft, rolling stock, vehicles and construction equipment, as is used partly within
4 and partly outside of this state.

5 [(11)] (16) "Small private railcar company" means a private railcar company with personal
6 property with a real market value for the tax year that does not exceed \$1 million.

7 [(12)] (17) "Transportation" means carrying, conveying or moving passengers or property from
8 one place to another.

9 [(13)] (18) "Vehicle" means any wheeled or tracked device used in transportation under, on or
10 in connection with the physical surface of the earth.

11 **SECTION 10. The Legislative Assembly declares that the intention of the amendments**
12 **to ORS 308.516 by section 8 of this 2015 Act is to exclude from central assessment the prop-**
13 **erty of qualifying companies that own or operate data centers.**

14 **SECTION 11. (1) Section 10 of this 2015 Act and the amendments to ORS 308.505 and**
15 **308.516 by sections 8 and 9 of this 2015 Act apply to property tax years beginning on or after**
16 **July 1, 2015.**

17 **(2) Sections 2, 3, 5 and 7 of this 2015 Act and the amendments to ORS 307.126 by section**
18 **4 of this 2015 Act apply to property tax years beginning on or after July 1, 2016.**

19 **SECTION 12. Section 6 of this 2015 Act is repealed on January 2, 2020.**

20 **SECTION 13. This 2015 Act takes effect on the 91st day after the date on which the 2015**
21 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

22