



## SENATE BILL 495B

**The Association of Oregon Counties and Special Districts Association of Oregon respectfully urge you to vote in *favor* of Senate Bill 495B.**

- In 2005, the legislature granted an exemption of property taxes imposed on the three Washington entities: Seattle City Light, Tacoma Power, and Snohomish County PUD. Each has a capacity ownership agreement in the Pacific Northwest AC Intertie, which runs through Oregon, and transmits electricity for sale. According to the Oregon Supreme Court, this interest is taxable (*Power Resources Cooperative v. Department of Revenue*, 330 Or. 24 (2000)). The 2009 Legislative Assembly should reimpose this tax.
- Oregon and Washington have parallel property tax policies: **Both States tax property owned or used by out-of-state public entities.** Removing this particular Oregon exemption for out-of-state public entities follows the **basic principle of taxation of non-exempted use of government-owned property**, as reaffirmed in *Power Resources Cooperative*. This is common: For example, State Capitol parking spaces in the basement leased and used by private persons are subject to property tax. Oregon need not give a competitive advantage to public entities in Washington that are in the business of marketing their power and sending it through this State. Nothing prevents the sellers from asking enough return from sales to cover their tax liabilities.
- Opponents of SB 495B claim that the Commerce Clause of the U.S. Constitution prevents this tax. Legislative Counsel refutes this claim in a recent opinion (*letter to Representative Phil Barnhart, May 5, 2009*).
- Opponents claim that the State of Washington would retaliate for this legitimate tax. If an Oregon public entity owns or uses property in Washington that would be taxed if held by a private interest, the Oregon public entity will be taxed there. **SB 495B does nothing**

**more than simply reapply property tax policy under which both States operate.**

- Do these three Washington entities receive Oregon services? Legislative Counsel notes the benefits from maintenance of public ways and protection by public safety services, criminal laws, and the courts. Moreover, the tax would be assessable only to the extent of the entities' use of property located in Oregon.
- According to the *2009-11 Tax Expenditure Report*, this property tax exemption will cost Oregon education and other public services \$1.2 million in biennium 2009-11, and shift \$200,000 of taxes to other taxpayers. It benefits only out-of-state business enterprises. And there is no stated purpose for the exemption. **SB 495B will not be a tax increase on Oregonians.** Now is not the time to ignore legitimate, lawful, and reasonable opportunities to provide revenues for badly needed public services.

AOC and SDAO urge passage of SB 495B.